



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

August 17, 2006

VIA FACSIMILE AND U.S. MAIL

Jason Torchinsky, Esq.
Holtzman Vogel PLLC
98 Alexandria Pike, Suite 53
Warrenton, VA 20186

RE: MUR 5764
Ravenel for U.S. Senate and
Ben Whaley Le Clercq, in his official
capacity as treasurer, and
Thomas Jonathan Jackson Ravenel

Dear Mr. Torchinsky:

On August 10, 2006, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your clients' behalf in settlement of violations of 2 U.S.C. §§ 434(a)(6)(B)(iv), 434(b)(2) and (4), provisions of the Federal Election Campaign Act of 1971, as amended, and 11 C.F.R. §§ 400.22 and 400.25, the Commission's implementing regulations. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script, reading "Claire N. Rajan".

Claire N. Rajan
Attorney

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR: 5764
Ravenel for U.S. Senate and Ben Whaley)
Le Clercq, in his official capacity as treasurer;)
and Thomas Jonathan Jackson Ravenel)

CONCILIATION AGREEMENT

The Federal Election Commission (the "Commission") initiated this matter pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe Ravenel for U.S. Senate and Ben Whaley Le Clercq, in his official capacity as treasurer, violated 2 U.S.C. §§ 434(a)(6)(B)(iv); 434(b)(2) and (4) and 11 C.F.R. § 400.22(a) and that Thomas Jonathan Jackson Ravenel violated 2 U.S.C. § 434(a)(6)(B)(iv) and 11 C.F.R. § 400.25.

NOW, THEREFORE, the Commission and Ravenel for U.S. Senate and Ben Whaley Le Clercq, in his official capacity as treasurer and Thomas Jonathan Jackson Ravenel, ("the Respondents"), having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Ravenel for U.S. Senate (“the Committee”) is a “political committee” within the meaning of 2 U.S.C. § 431(4). It is the authorized committee for Thomas Jonathan Jackson Ravenel’s race for the United States Senate in South Carolina in 2004.

2. Ben Whaley Le Clercq is the treasurer of Ravenel for U.S. Senate.

3. Not later than 24 hours after a Senate candidate “makes or obligates to make an aggregate amount of expenditures from personal funds in excess of 2 times the threshold amount in connection with any election, the candidate shall file” a 24-Hour Notice of Expenditure from Candidate’s Personal Funds (“FEC Form 10”) with the Secretary of the Senate, the Commission, and each candidate in the same election. 2 U.S.C. § 434(a)(6)(B)(iii); 11 C.F.R. § 400.21(a). The threshold for United States Senate candidates is the sum of \$150,000 plus an amount equal to the voting age population of the state multiplied by four cents. 11 C.F.R. § 400.9. In the case of South Carolina in 2004, the threshold amount was \$276,920 ($\$150,000 + (3,173,000 \times \$0.04)$). Thus, two times the threshold amount is \$553,840. Once the candidate has exceeded the threshold, notifications are also required for each additional expenditure of personal funds of \$10,000 or more in connection with the election. These notifications must be filed with the Secretary of the Senate, the Commission, and each opposing candidate within 24 hours. 2 U.S.C. § 434(a)(6)(B)(iv); 11 C.F.R. § 400.22(a). Candidates are responsible for ensuring that FEC Form 10 is properly filed by their principal campaign committees. 11 C.F.R. § 400.25.

4. Each notification must include the date and the amount of each expenditure and the total amount of expenditures from personal funds that the candidate has made, or obligated to make, with respect to an election. 2 U.S.C. § 434(a)(6)(B)(v); 11 C.F.R. § 400.23.¹

¹ An expenditure from personal funds includes direct contributions, an expenditure made by a candidate using personal funds, loans made by the candidate using personal funds, or a loan secured using such funds to the candidate’s authorized committee. 2 U.S.C. § 434(a)(6)(B)(i); 11 C.F.R. § 400.4.

5. Mr. Ravenel declared his candidacy with the Commission in May 2003, filing an FEC Form 2 Statement of Candidacy, which declared that he intended to spend \$1,000,000 above the applicable threshold amount in both the primary and general elections. Mr. Ravenel expended \$2,936,500 in personal funds on his primary election campaign.

6. On June 30, 2003, Mr. Ravenel loaned the Committee \$950,000, designated for the primary, triggering and exceeding the reporting threshold requirement of \$553,840. The Committee timely filed the requisite FEC Form 10 for this loan.

7. On September 30, 2003, Ravenel loaned the Committee \$50,000 designated for the primary. The Committee did not file the FEC Form 10 for this loan until December 17, 2003, 77 days late.

8. Following the June 8, 2004 primary, the candidate made a \$50,000 contribution to the Committee on June 10, 2004, designated for the primary. The Committee filed the FEC Form 10 on June 14, 2004, three days late.

9. Mr. Ravenel made three contributions to the Committee of \$45,000, \$40,000, and \$16,500 on June 15, 2004, June 30, 2004, and August 3, 2004, respectively. On October 14, 2004, the Committee filed FEC Form 10s for the June expenditures, 120 and 105 days late, respectively. The FEC Form 10 for the August 3, 2004 contribution was filed on October 13, 2004, 71 days late.

10. Each treasurer of a political committee must file reports of receipts and disbursements in accordance with 2 U.S.C. § 434(a). For non-election calendar years, principal campaign committees of Senate candidates must file the report for the quarter ending December 31 no later than January 31 of the following calendar year. 2 U.S.C. § 434(a)(2)(B). The Year-End Report must disclose for the reporting period and calendar year the total amount of all

receipts and all disbursements. 2 U.S.C. §§ 434(b)(2) and (4); 11 C.F.R. §§ 104.3(a)(2) and (b)(1). It must also identify each person who makes a contribution to the reporting committee during the reporting period whose contributions have an aggregate amount or value in excess of \$200 within the calendar year. 2 U.S.C. § 434(b)(3)(A). The report additionally must identify each expenditure made to meet candidate or committee operating expenses and the name and address of each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made, together with the date, amount, and purpose of each expenditure. 2 U.S.C. §§ 434(b)(4)(A) and 434(b)(5)(A).

11. After the Committee filed its 2003 Year-End Report, it filed two amendments, ultimately disclosing an additional \$33,969.36 in total receipts and \$105,121.99 in total disbursements over the amounts disclosed in the original Report. The Committee filed its original 2003 Year-End Report on January 29, 2004, disclosing total receipts of \$68,025.04 and total disbursements of \$443,106.71. On April 8, 2004, the Committee filed an amended 2003 Year-End Report, disclosing total receipts and disbursements of \$80,506.52 and \$449,809.97, respectively. After the election, on July 15, 2004, the Committee filed another amended 2003 Year-End Report, disclosing total receipts of \$102,895 and total disbursements of \$548,228.70.

12. Several in-kind contributions for catering, tent rental, plane transportation, printing, and food and beverage costs, totaling \$12,320 were not reported in the original 2003 Year-End Report. The Committee reported these receipts in the amended report filed on April 8, 2004 as in-kind contributions received between November 25, 2003 and December 12, 2003. Also, in the original 2003 Year-End Report, the Committee reported a receipt from itself in the amount of \$10,838.84, made on December 31, 2003. In the amended 2003 Year-End Report filed on April 8, 2004, the Committee attributed that receipt to Smith Barney. In the last amended 2003 Year-

End Report filed on July 15, 2004, the Committee increased the receipt to \$21,701 and disclosed that it represented capital gains and interest. In that Report, the Committee added a second receipt from Smith Barney in the amount of \$11,525, made on November 30, 2003, also for capital gains and interest. A \$500 contribution made on December 19, 2003 appeared only in the original 2003 Year-End Report.

13. With respect to disbursements, the total increase between the original and last amended 2003 Year-End Reports was \$105,121.99. The bulk of this difference is due to an omission of one transaction -- a \$104,976 disbursement to Media Solutions on October 3, 2003, first reported in the last amended 2003 Year-End Report, filed on July 15, 2004.

V. 1. Ravenel for U.S. Senate and Ben Whaley Le Clercq, in his official capacity as treasurer violated 2 U.S.C. §§ 434(a)(6)(B)(iv); 434(b)(2) and (4) and 11 C.F.R. § 400.22(a) by filing FEC Form 10s untimely and misreporting receipts and disbursements in the original 2003 Year-End Report.

2. Thomas Jonathan Jackson Ravenel violated 2 U.S.C. § 434(a)(6)(B)(iv) and 11 C.F.R. § 400.25 by filing FEC Form 10s untimely.

VI. Respondents will take the following actions:

1. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Nineteen Thousand and Five Hundred dollars (\$19,500) pursuant to 2 U.S.C. § 437g(a)(5)(A).

2. Respondents will cease and desist from future violations of §§ 434(a)(6)(B)(iv) and 434(b)(2) and (4) and 11 C.F.R. §§ 400.22(a) and 400.25.

VII. The Commission, on request of anyone filing a complaint under

2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

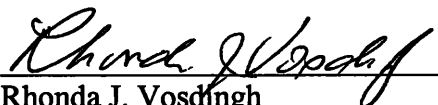
VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence H. Norton
General Counsel

BY: 
Rhonda J. Vosdingh
Associate General Counsel for Enforcement

8/16/06
Date

FOR THE RESPONDENTS:

BY: 
(Name) Jason Torchinsky
Counsel for Respondents

8/1/06
Date